IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6241 of 2007()

CRIME NO. 174/07 OF KORATTY POLICE STATION
AGAINST THE ORDER DATED 13/09/2007 IN CR.NO.174/2007 IN
CRMP.11435/2007 of J.M.F.C.,CHALAKUDY

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PETITIONER : 3RD ACCUSED (IN CUSTODY):

SABU, S/O.KASIM, KOTTAPADIKKAL HOUSE,
CHALAKUDY.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, KORATTY POLICE
STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6241 of 2007

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Dated this the 24th day of October, 2007

O R D E R

Application for regular bail. The petitioner is the third accused in a crime registered for offences punishable, inter alia, under Section 398 I.P.C. The alleged incident took place on 25.4.2007. The defacto complainant, who was proceeding in a car along with some others in connection with his work of collecting amounts from the persons, to whom chicken had been supplied and was carrying an amount of Rs.4.3 Lakhs, was allegedly stopped by the miscreants, who came in another car. Attempt was made to rob the defacto complainant of such amounts. Damage was caused to car in which he was travelling. The prosecution has a case that the miscreants were actually not intending to attack the defacto complainant, but they were intending to attack some carriers of Hawala money. But on account of mistaken identity the overt acts were committed against the petitioner. In the F.I.R. no accused person is named. The number of the car, in which the miscreants had come was specified. Investigation proceeded in that direction. The owner of the car was

traced. From the owner it was revealed that the vehicle was in the possession of the 7th accused at the relevant time. He was arrested and interrogated. The Investigating Officer then came to know of the complicity of seven accused persons, including the petitioner herein. He was arrested long later on 11.9.2007 and he continues in custody from that date.

3. The learned Prosecutor submits that the petitioner has criminal antecedents. He is involved in several crimes, including two cases, where allegations are raised under section 302 I.P.C. Investigation is in progress. Only accused 2, 3 and 7 have been arrested by now. Efforts are afoot to arrest the absconding c0accused.

4. The learned counsel for the petitioner submits that the allegations are totally false. The petitioner has no culpable responsibility whatsoever for the crime committed in the instant case. Because of his alleged involvement in previous cases, false allegations are made merely on the basis of suspicion and with an intention to vex him. He may now be enlarged on bail, he having remained in custody from 11.9.2007, submits the learned counsel.

5. The learned counsel for the petitioner relied on the remand report submitted by the police on the arrest of A7. In the said report it is revealed that the Investigator has come to know of the complicity of A1 to 7 and had arrested the 7th accused. The learned counsel advances an argument that the remand report suggests that even before the arrest of A7, the Investigating Officer had come to know of the complicity of the petitioner. How did he know of the complicity of the petitioner? On what basis is it stated in the remand report that the complicity of other accused including the petitioner is ascertained prior to the arrest of A7, queries the learned counsel.

6. The case diary was placed before me. It is true that the sequence of events narrated in the remand report might suggest that the Investigating Officer had some prior information about the complicity of the petitioner herein. But a detailed perusal of the case diary must convince that it is only an erroneous narration about the sequence of events. It is now conceded that it is only after the arrest of A7 that the Investigating Officer got information about the involvement of the other accused. It was revealed that the said car was used by the miscreants and that the owner of the vehicle has stated that A7 was the person having possession of the car at

the time of the incident. Even though there are inadequacies and inelegance in the narration of the sequence of events in the remand report, I am satisfied that there is merit in the opposition by the learned Prosecutor. The allegations raised are very serious. The petitioner has criminal antecedents. Investigation is at a very early stage. In a serious crime like this the Investigators deserves to be given sufficient and reasonable time to complete the investigation.

4. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move this court or the courts below for bail again at a later stage of the investigation, not at any rate, prior to 7.11.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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